



KANSAS
DEPARTMENT OF HEALTH AND ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

August 1, 2000

Redacted to remove non-responsive information

Mr. Phillip Retallick
Senior Vice President
Corporate Compliance and Engineering Technology
1301 Gervais Street, Suite 300
Columbia, South Carolina 29201

Cert. Mail No. 7000 0520 0022 9118 0018

NOTICE OF VIOLATION

RE: Financial Assurance for the Following Safety-Kleen Facilities:

Safety-Kleen (Wichita), Inc.
2549 North New York
Wichita, KS 67219
EPA I.D. KSD007246846

501677



RCRA

Dear Mr. Retallick:

The Kansas Department of Health and Environment (KDHE) has determined that the affiliated companies of Safety-Kleen Corporation listed above and identified by EPA I.D. numbers [REDACTED] are in violation of financial assurance regulations promulgated under authority of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, and as adopted by reference in Kansas Administrative Regulation 28-31-1.

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RCRA regulation 40 CFR 264.143(b)(1) requires that closure financial assurance in the form of a surety bond guaranteeing payment be provided from a surety company which is among those listed as acceptable sureties on Federal bonds in Circular 570 of the U. S. Department of the Treasury. The referenced facilities have provided closure financial assurance in the form of a surety bond guaranteeing payment issued by Frontier Insurance Company. On June 6, 2000, the U. S. Department of the Treasury notified the public through the Federal Register that the Certificate of Authorization issued by the Treasury Department to Frontier Insurance Company to qualify as an acceptable surety on Federal bonds was terminated effective May 31, 2000.

RCRA regulation 40 CFR 264.148(b) requires that an owner or operator who fulfills the requirements of Paragraph 264.143 by obtaining a surety bond will be deemed to be without the required financial assurance in the event of a suspension or revocation of the authority of the institution issuing the surety bond to issue such instruments. Effective May 31, 2000, the referenced facilities no longer had compliant closure financial assurance filed with KDHE. Further, the referenced regulation requires that the owner or operator must establish other financial assurance within 60 days after the issuer of the surety bond loses its authority to be an issuer of closure financial assurance instruments. The 60 day period allowed by regulation for replacement of financial assurance ended on July 31, 2000. The referenced facilities did not provide replacement closure financial assurance to KDHE within the required time; therefore, they became non-compliant with the requirements of 40 CFR 264.148(b) effective at close of business on July 31, 2000.

The affiliates of Safety-Kleen Corporation identified by EPA I.D. numbers [REDACTED] are in violation of 40 CFR 264.143(b)(1) and 40 CFR 264.148(b).

This matter must be addressed by Safety-Kleen Corporation and the identified affiliates by either: (1) providing replacement financial assurance from an acceptable institution in any of the forms allowed by provisions of 40 CFR 264.143 on or before September 29, 2000, or (2) by signing a consent agreement on or before September 29, 2000 with KDHE providing a scheduled return to compliance. KDHE agrees to work closely with Safety-Kleen to finalize a consent agreement if that option is selected; however, the department reserves the right to initiate additional enforcement actions if the agreement is not finalized within the allotted 60 day period.

Two additional affiliates of Safety-Kleen Corporation, those identified by EPA I.D. numbers [REDACTED] and KSD007246846, are under review by KDHE with regard to concerns about the capacity of the provider of closure financial assurance to perform as agreed in the closure insurance contract. KDHE will allow Safety-Kleen to include these facilities in the consent agreement along with those which are currently out of compliance to specify a schedule for obtaining replacement financial assurance for all Safety-Kleen facilities in Kansas.

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Safety-Kleen must notify KDHE on or before August 11, 2000 regarding which option will be selected in response to this Notice of Violation. Your response should be sent to my attention. Further correspondence regarding compliance activities or the development of a consent agreement may be with Jim Gilliland, the financial assurance coordinator for the Bureau of Waste Management (785/296-0680), or Bill Anderson, the KDHE attorney assigned to the Bureau of Waste Management (785/296-6724 or 785/296-0685). If you have any questions regarding the findings or requirements set forth in this letter, please contact me or either of the two persons listed above.

Sincerely,



William L. Bider

Director

Bureau of Waste Management

C Ron Hammerschmidt
Bill Anderson
Jim Gilliland
Dennis Degner
Mary Bitney